

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

REC'D 17 NOV 2004
PCT
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WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Applicant's or agent's file reference
see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/IB2004/002630

International filing date (day/month/year)
04.08.2004

Priority date (day/month/year)
11.08.2003

International Patent Classification (IPC) or both national classification and IPC
H04B7/005

Applicant
KONINKLIJKE PHILIPS ELECTRONICS N.V.

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/IB2004/002630

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/IB2004/002630

Box No. II Priority

1. The following document has not been furnished:

copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-22
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-22
Industrial applicability (IA)	Yes: Claims	1-22
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following documents:

D1: WO 00/62442 A (AIRNET COMMUNICATIONS CORP) 19 October 2000 (2000-10-19)
D2: US 2002/118729 A1 (KOWALSKI JOHN ET AL) 29 August 2002 (2002-08-29)
D3: EP-A-0 887 947 (NIPPON ELECTRIC CO) 30 December 1998 (1998-12-30)

2. Novelty:

The document **D3** is regarded as being the closest prior art to the subject-matter of claim 1, and shows a method for controlling the power of a first station (BTS) in a CDMA system comprising (the references in parentheses applying to this document):

in response to the second station wishing to transmit an additional signal, the power of the first signal is scaled (the total transmitting power P_{total} of communication channels is calculated and compared with the maximum total transmitting power P_{max} . The transmitting power of each communication channel is reduced based on the proportion of insufficiency of transmitting power; see abstract and claims 1-3)

The subject-matter of claim 1 differs from the disclosure of D3 in that:

- i. the first station is a mobile station and the second station a base station
- ii. the power of the additional signal is not reduced but only the power of the first signal

The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

3. Inventive step:

The present application does not meet the criteria of Article 33(1) PCT because the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT.

The problem to be solved by the present invention may be regarded as a method to manage power in a mobile station when an additional signal must be sent,

The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

the fact that the transmit power of the additional signal is not scaled can not be considered inventive because that power is set by the base station in order to make sure that the ACK or NACK will be detected with a certain probability. Taking the greatest of them both would be a normal design procedure for a skilled person trying to keep the transmit power of the mobile station below the maximum allowed, when a new signal has to be transmitted.

4. **Dependent claims:**

Dependent claims 2-11 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, see documents D1, D2 and D3 and the corresponding passages in the Search Report.

5. **Other independent claims:**

The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claims 12 and 18, which therefore are also considered not inventive.